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Committee on the Peaceful Uses of Outer Space
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Draft report

Addendum

Chapter II

Recommendations and decisions

C. Report of the Legal Subcommittee on its fifty-third session

1. The Committee took note with appreciation of the report of the Legal Subcommittee on its fifty-third session (A/AC.105/1067), which contained the results of its deliberations on the items considered by the Subcommittee in accordance with General Assembly resolution 68/75.

2. The Committee expressed its appreciation to Kai-Uwe Schrogl (Germany) for his able leadership during the fifty-third session of the Subcommittee.

3. The representatives of Austria, Brazil, Canada, China, the Czech Republic, Germany, Italy, Japan, Mexico, the Republic of Korea, the Russian Federation, South Africa, the United States and Venezuela (Bolivarian Republic of) made statements under the item. A statement was also made under the item by the representative of Chile on behalf of the Group of Latin American and Caribbean States. During the general exchange of views, statements relating to the item were also made by other member States and by the representative of Morocco on behalf of the Group of African States.

4. Under the item, the Committee heard presentations entitled "China's space policy: legislation and international cooperation" and "Research on space law in China", both by the representatives of China.

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1. Information on the activities of international intergovernmental and non-governmental organizations relating to space law

5. The Committee took note of the discussion of the Subcommittee under the item on information on the activities of international intergovernmental and non-governmental organizations relating to space law, as reflected in the report of the Subcommittee (A/AC.105/1067, paras. 33-45).

6. The Committee noted the important role of international intergovernmental and non-governmental organizations and their contribution to its endeavours to promote the development of space law and endorsed the recommendation of the Subcommittee that such organizations should again be invited to report to the Subcommittee at its fifty-fourth session on their activities relating to space law.

7. The Committee noted that, in accordance with the decision of the Subcommittee, the observer for Unidroit had apprised the Subcommittee of recent developments in relation to the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Space Assets (A/AC.105/1067, para. 43).

2. Status and application of the five United Nations treaties on outer space

8. The Committee took note of the discussion of the Subcommittee under the item on the status and application of the five United Nations treaties on outer space, as reflected in the report of the Subcommittee (A/AC.105/1067, paras. 46-67).

9. The Committee endorsed the decisions and recommendations of the Subcommittee and its Working Group on the Status and Application of the Five United Nations Treaties on Outer Space, which had been reconvened under the chairmanship of Jean-François Mayence (Belgium) (A/AC.105/1067, para. 48, and annex I, paras. 7, 9, 10, 15 and 16).

10. The Committee noted with satisfaction that EUTELSAT-IGO had declared its acceptance of the rights and obligations under the Convention on Registration of Objects Launched into Outer Space.

11. Some delegations expressed the view that the Committee should review, update and modify the five treaties, for the purpose of strengthening the guiding principles of outer space activities, in particular those principles that guarantee its peaceful use, strengthen international cooperation, make space technology available to humanity and strengthen the responsibility of States in space activities carried out by both governmental and non-governmental entities.

12. Some delegations expressed the view that the United Nations treaties on outer space constituted a solid legal structure that was crucial for supporting the increasing volume of space activities and for strengthening international cooperation on the peaceful uses of outer space. Those delegations welcomed further adherence to the treaties and hoped that those States that had not yet ratified or acceded to the treaties would consider becoming parties to them.

13. The view was expressed that the work of the Legal Subcommittee should be centred on enhancing the effectiveness of existing outer space treaties and should be carried out with the following key aims: first, to strive for the universal acceptance of and compliance with the outer space treaties; second, to consolidate the

implementation of the outer space treaties; and third, to strengthen States' capacity-building in space law.

14. The view was expressed that a universal, comprehensive convention on outer space should be developed with the aim of finding solutions for existing issues, which would allow the international legal regime on outer space to be taken to the next level of its development.

15. The view was expressed that an approach oriented towards a universal, comprehensive convention on outer space would be counterproductive, as the principles contained in the existing space law instruments had established a framework that had encouraged the use and exploration of outer space for both spacefaring and non-spacefaring nations.

16. Some delegations expressed the view that, given the rapid increase in space activities and the emergence of new space actors, more coordination and synergy between the Legal Subcommittee and the Scientific and Technical Subcommittee were needed in order to promote the understanding, acceptance and application of the existing United Nations treaties and to strengthen the responsibility of States in carrying out space activities.

17. The view was expressed that conference room paper A/AC.105/C.2/2014/CRP.18 and Corr.1, which had been made available at the fifty-third session of the Legal Subcommittee, included inaccuracies and unfounded characterizations of the space policy of another member State.

3. Matters relating to the definition and delimitation of outer space and the character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of the International Telecommunication Union

18. The Committee took note of the discussion of the Subcommittee under the agenda item on matters relating to the definition and delimitation of outer space and the character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of ITU, as reflected in the report of the Subcommittee (A/AC.105/1067, paras. 68-85).

19. The Committee endorsed the recommendations of the Subcommittee and its Working Group on the Definition and Delimitation of Outer Space, reconvened under the chairmanship of José Monserrat Filho (Brazil) (A/AC.105/1067, para. 71, and annex II, para. 15).

20. Some delegations expressed the view that the lack of a definition or delimitation of outer space created legal uncertainty concerning the applicability of space law and air law, and that matters concerning State sovereignty and the boundary between airspace and outer space needed to be clarified in order to reduce the possibility of disputes among States.

21. The view was expressed that the assessment of the role of customary law and the potential of "soft law" might be reflected further in particular topics, such as the law applicable to suborbital flights and the definition and delimitation of outer space.

22. Some delegations expressed the view that the Working Group on the Definition and Delimitation of Outer Space should undertake a review of the term "space activities" with the objective of building a consensus, even a preliminary one, while temporarily putting aside the task of defining and delimiting outer space in order to concentrate on defining space activities, which is one of the subjects of regulation by space law.

23. Some delegations expressed the view that the geostationary orbit — a limited natural resource clearly in danger of saturation — must be used rationally and should be made available to all States, irrespective of their current technical capacities. That would give States the possibility of access to the orbit under equitable conditions, bearing in mind, in particular, the needs and interests of developing countries, as well as the geographical location of certain countries, and taking into account the processes of ITU and relevant norms and decisions of the United Nations.

24. Some delegations expressed the view that the geostationary orbit was part of outer space, that it was not subject to national appropriation by a claim of sovereignty, by means of use or occupation or by any other means, including by means of use or repeated use, and that its utilization was governed by the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, and the ITU Constitution, Convention and Radio Regulations.

25. The view was expressed that States should seek alternative ways of using the geostationary orbit that were more rational and balanced.

26. Some delegations expressed the view that the utilization by States of the geostationary orbit on the basis of "first come, first served" was unacceptable and that the Subcommittee should therefore develop a legal regime guaranteeing equitable access to orbital positions for States, in accordance with the principles of peaceful use and non-appropriation of outer space.

4. National legislation relevant to the peaceful exploration and use of outer space

27. The Committee took note of the discussion of the Legal Subcommittee under the item on national legislation relevant to the peaceful exploration and use of outer space as reflected in the report of the Subcommittee (A/AC.105/1067, paras. 86-99).

28. The Committee welcomed the adoption by the General Assembly of resolution 68/74 on recommendations on national legislation relevant to the peaceful exploration and use of outer space.

29. The Committee noted with satisfaction that States continued to undertake efforts aimed at the development of national space-related regulatory frameworks, in accordance with the United Nations treaties on outer space.

30. The Committee agreed that the general exchange of information on national legislation relevant to the peaceful exploration and use of outer space provided States with a comprehensive overview of the current status of national space laws and regulations and assisted States in understanding the different approaches taken at the national level with regard to the development of national space-related regulatory frameworks.

5. Capacity-building in space law

31. The Committee took note of the discussion of the Subcommittee under the item on capacity-building in space law, as reflected in the report of the Subcommittee (A/AC.105/1067, paras. 100-120).

32. The Committee endorsed the recommendations of the Subcommittee on the agenda item (A/AC.105/1067, paras. 110 and 119-120).

33. The Committee agreed that capacity-building, training and education in space law were of paramount importance to national, regional and international efforts to further develop the practical aspects of space science and technology, especially in developing countries, and to increase knowledge of the legal framework within which space activities were carried out.

34. The Committee noted that the exchange of views on national and international efforts to promote a wider appreciation of space law and endeavours such as the series of United Nations workshops on space law and the education curriculum on space law played a vital role in building capacity in space law.

35. The Committee noted that the African Leadership Conference on Space Science and Technology for Sustainable Development had been held in Accra from 3 to 5 December 2013, with a space law session focusing on capacity-building, legal aspects of space debris, obligations of States under international treaties on outer space and national legislation relevant to the peaceful exploration and use of outer space from an African perspective.

36. The Committee noted with appreciation that the Office for Outer Space Affairs, together with the Government of China, the China National Space Administration and APSCO, was preparing the ninth United Nations workshop on space law, to be held in Beijing from 17 to 21 November 2014.

37. The Committee noted with satisfaction the completion of the education curriculum on space law, which constituted a dynamic educational tool that could be easily used by educators from different professional backgrounds.

38. The Committee also welcomed the web-based compilation of reading materials, accessible on the website of the Office for Outer Space Affairs, which would be updated as new or additional materials were identified.

39. The Committee noted with appreciation the offer conveyed by Canada on behalf of the Institute of Air and Space Law of McGill University to contribute to the introduction and teaching of the curriculum at the regional centres for space science and technology education, affiliated to the United Nations, at no cost to the Office for Outer Space Affairs.

6. Review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space

40. The Committee took note of the discussion of the Subcommittee under the item on the review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space, as reflected in the report of the Subcommittee (A/AC.105/1067, paras. 121-132).

41. Some delegations expressed the view that it was exclusively States, irrespective of their level of social, economic, scientific or technical development, that had an obligation to engage in regulatory activity associated with the use of nuclear power sources in outer space and to adapt national legislation to relevant international standards. Those delegations were also of the view that Governments bore international responsibility for national activities involving the use of nuclear power sources in outer space conducted by governmental and non-governmental organizations and that such activities must be beneficial and not detrimental to humanity.

42. Some delegations called on the Legal Subcommittee to undertake a review of the Safety Framework for Nuclear Power Source Applications in Outer Space and to promote binding standards with a view to ensuring that any activity conducted in outer space was governed by the principles of preservation of life and maintenance of peace.

43. Some delegations expressed the view that there should be greater coordination and interaction between the Scientific and Technical Subcommittee and the Legal Subcommittee in order to promote greater understanding, acceptance and implementation of the legal instruments and the development of new legal instruments related to the use of nuclear power sources in outer space.

7. General exchange of information and views on legal mechanisms relating to space debris mitigation measures, taking into account the work of the Scientific and Technical Subcommittee

44. The Committee took note of the discussion of the Legal Subcommittee under the item on the general exchange of information and views on legal mechanisms relating to space debris mitigation measures, taking into account the work of the Scientific and Technical Subcommittee, as reflected in the report of the Legal Subcommittee (A/AC.105/1067, paras. 133-156).

45. The Committee endorsed the decisions of the Subcommittee as contained in its report (A/AC.105/1067, paras. 154-156).

46. The Committee expressed concern over the increasing amount of space debris and noted with satisfaction that the endorsement by the General Assembly, in its resolution 62/217, of the Space Debris Mitigation Guidelines of the Committee on the Peaceful Uses of Outer Space[1] was a key step in providing all spacefaring nations with guidance on how to mitigate the problem of space debris, and encouraged Member States to consider voluntary implementation of the Guidelines.

47. The Committee noted with satisfaction that some States had taken measures to enforce the implementation of internationally recognized guidelines and standards relating to space debris through relevant provisions in their national legislation.

48. The Committee had before it a conference room paper containing a compendium of space debris mitigation standards adopted by States and international organizations, submitted by Canada, the Czech Republic and Germany (A/AC.105/2014/CRP.13).

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[1] *Official Records of the General Assembly, Sixty-second Session, Supplement No. 20* (A/62/20), annex.

49. The Committee expressed its appreciation to Canada, the Czech Republic and Germany for the development of the compendium and requested the Secretariat to maintain the compendium on a dedicated page of the website of the Office for Outer Space Affairs.

50. The Committee agreed that member States of the Committee and international intergovernmental organizations with permanent observer status with the Committee should be invited to provide or update the information on any legislation or standards adopted with regard to space debris mitigation, using the template provided for that purpose. The Committee also agreed that all other Member States of the United Nations should be invited to contribute to the compendium, encouraging States with such regulations or standards to provide information on them. The updated compendium should be made available to the Legal Subcommittee at its fifty-fourth session, in 2015.

51. Some delegations expressed the view that it was necessary to strengthen the interaction between the Scientific and Technical Subcommittee and the Legal Subcommittee in order to synchronize the progressive development of space law with major progress in space science and technology, and that outcomes of the work of working groups of the Subcommittee, in particular the Space Debris Mitigation Guidelines of the Committee, should be officially presented to the Legal Subcommittee for legal analysis regarding compliance with principles on outer space.

52. Some delegations expressed the view that the Legal Subcommittee should develop legal mechanisms to deal with the issue of space debris and consequences arising from collisions with space debris or their re-entry into the atmosphere.

53. Some delegations expressed the view that the Space Debris Mitigation Guidelines of the Committee should be given a higher legal status, which might help to reinforce the regulatory framework at the global level.

54. The view was expressed that the Space Debris Mitigation Guidelines of the Committee had proved to be important mechanisms for international cooperation to address major opportunities and challenges in the peaceful exploration and use of outer space.

55. The view was expressed that spacefaring nations should adopt safeguards to control and prevent the generation of space debris, and should provide reliable information to enable timely assessment of risks from the re-entry of space debris into the atmosphere.

56. The view was expressed that the Legal Subcommittee should consider the issues in respect of active removal of space debris and further development of mitigation norms.

8. General exchange of information on non-legally binding United Nations instruments on outer space

57. The Committee took note of the discussion of the Subcommittee under the item on general exchange of information on non-legally binding United Nations instruments on outer space, as reflected in the report of the Subcommittee (A/AC.105/1067, paras. 157-174 and 192-197).

58. The Committee endorsed the decisions of the Subcommittee as contained in its report (A/AC.105/1067, paras. 169-197).

59. The Subcommittee noted with satisfaction that some States had taken measures to implement internationally recognized guidelines, principles and standards through relevant provisions in their national legislation, and thus non-binding international norms had become an integral part of their national legislation.

60. Some delegations expressed the view that existing non-legally binding United Nations instruments related to space activities had played an important role in complementing and supporting the United Nations treaties on outer space and that they continued to play a significant role as an effective means to address emerging issues and served as a basis to ensure the safe and sustainable use of outer space.

61. The view was expressed that legally non-binding principles and technical guidelines developed by the Committee, such as the Space Debris Mitigation Guidelines of the Committee and the Principles Relating to Remote Sensing of the Earth from Outer Space, had proved to be important mechanisms for international cooperation to address major opportunities and challenges in the peaceful exploration and use of outer space.

62. The view was expressed that the discussion under the item should be focused on exchanges of information and experience by States on space "soft law" rules, and should avoid creating a negative impact on the will of countries to conclude and implement such rules. The delegation expressing that view was also of the view that the drafting and implementation of non-legally binding instruments on outer space should be carried out on the basis of existing United Nations treaties, principles and declarations on outer space, should take fully into account the needs and interests of the developing countries, should not exceed countries' current capacity to develop space technologies or their level of management of space activities, and should not seek to introduce standards or requirements that were hard to implement.

63. The view was expressed that non-legally binding instruments would be able to play an important role in making up for a lack of existing international legal instruments on outer space, and that such non-legally binding instruments should be adopted on the basis of consensus among all States members of the Committee in order for such instruments to be applicable to spacefaring and non-spacefaring countries.

9. Review of international mechanisms for cooperation in the peaceful exploration and use of outer space

64. The Committee took note of the discussion of the Legal Subcommittee under the item on the review of international mechanisms for cooperation in the peaceful exploration and use of outer space, in accordance with its five-year workplan, as reflected in the report of the Subcommittee (A/AC.105/1067, paras. 175-187).

65. The Committee endorsed the decisions and recommendations of the Subcommittee and its Working Group on the Review of International Mechanisms for Cooperation in the Peaceful Exploration and Use of Outer Space, which had been established by the Subcommittee at its fifty-third session, under the chairmanship of Setsuko Aoki (Japan) (A/AC.105/1067, para. 177, and annex III, paras. 9-10).

66. The Committee noted that the review of the mechanisms for cooperation in space activities would continue to assist States in understanding the different approaches to cooperation in space activities and would contribute to the further strengthening of international cooperation in the exploration and peaceful uses of outer space. In that regard, the Subcommittee recalled that 2017, the final year of consideration of the agenda item, according to its workplan, coincided with the fiftieth anniversary of the Outer Space Treaty.

67. The Committee noted the breadth and diversity of the mechanisms utilized in space cooperation, including multilateral and bilateral legally binding agreements; non-legally binding arrangements, principles and technical guidelines; multilateral coordination mechanisms through which space-system operators coordinated the development of applications of space systems for the benefit of the environment, human security and welfare, and development; and a variety of international and regional forums.

68. The Committee noted with satisfaction that the exchange of information under the new agenda item on a broad range of international cooperative mechanisms employed by States members of the Committee with a view to identifying common principles and procedures was of major significance to member States as they considered relevant mechanisms to facilitate future cooperation in the exploration and peaceful uses of outer space.

69. The Committee noted that the set of questions prepared by the Working Group (A/AC.105/1067, annex III, para. 10) constituted a tool to enable the Working Group to meet its objectives under its multi-year workplan, and that States members of the Committee and permanent observers to the Committee were encouraged to refer to the set of questions, as appropriate and on a voluntary basis, for guidance on their contributions to the work of the Working Group.

10. Draft provisional agenda for the fifty-fourth session of the Legal Subcommittee

70. The Committee took note of the discussion of the Subcommittee under the item on the draft provisional agenda for the fifty-fourth session of the Legal Subcommittee, as reflected in the report of the Subcommittee (A/AC.105/1067, paras. 191-202).

71. On the basis of the deliberations of the Legal Subcommittee at its fifty-third session, the Committee agreed that the following substantive items should be considered by the Subcommittee at its fifty-fourth session:

Regular items

1. General exchange of views.
2. Information on the activities of international intergovernmental and non-governmental organizations relating to space law.
3. Status and application of the five United Nations treaties on outer space.
4. Matters relating to:
   (a) The definition and delimitation of outer space;

(b) The character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of the International Telecommunication Union.

5. National legislation relevant to the peaceful exploration and use of outer space.

6. Capacity-building in space law.

Single issues/items for discussion

7. Review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space.

8. General exchange of information and views on legal mechanisms relating to space debris mitigation measures, taking into account the work of the Scientific and Technical Subcommittee.

9. General exchange of information on non-legally binding United Nations instruments on outer space.

Items considered under workplans

10. Review of international mechanisms for cooperation in the peaceful exploration and use of outer space.
(Work for 2015 as reflected in the multi-year workplan in the report of the Legal Subcommittee on its fifty-first session (A/AC.105/1003, para. 179))

New items

11. Proposals to the Committee on the Peaceful Uses of Outer Space for new items to be considered by the Legal Subcommittee at its fifty-fifth session.

72. The Committee agreed that the Working Group on the Status and Application of the Five United Nations Treaties on Outer Space, the Working Group on Matters Relating to the Definition and Delimitation of Outer Space and the Working Group on the Review of International Mechanisms for Cooperation in the Peaceful Exploration and Use of Outer Space should be reconvened at the fifty-fourth session of the Legal Subcommittee.

73. The Committee also agreed that the Subcommittee should review, at its fifty-fourth session, the need to extend beyond that session the mandate of the Working Group on the Status and Application of the Five United Nations Treaties on Outer Space.

74. Some delegations expressed the view that the proposal by Germany for the renewal of the structure of the agenda and organization of work of the Legal Subcommittee, as contained in document A/AC.105/C.2/L.293/Rev.2, constituted a timely and constructive effort to simplify the structure of the Subcommittee's agenda and to make more efficient use of the sessions of the Subcommittee.

75. Some delegations expressed the view that further consultations on the proposal would be necessary in order for the Legal Subcommittee to arrive at a consensus.

76. Some delegations called for streamlining and improving the work of the Committee and its subsidiary bodies. Those delegations expressed the view that the work of the Legal Subcommittee should be reinforced by giving priority to the substantive issues aimed at strengthening the international legal framework.

77. The view was expressed that the work of the Legal Subcommittee should be centred on striving towards universal adherence to the outer space treaties, consolidating the implementation of the outer space treaties and strengthening capacity-building in space law, and that decisions in the Subcommittee should be taken by consensus.

78. The view was expressed that, with a view to increasing the productivity of the Legal Subcommittee, the organization of work under each agenda item should be reviewed and clear objectives and time frames for their achievement should be set.

79. The view was expressed that the adoption of instruments by a qualified majority instead of by consensus should be considered in order to further develop legally binding norms of space law.

80. The view was expressed that the duration of the sessions of the Legal Subcommittee should remain unchanged.

81. The Committee agreed that the International Institute of Space Law (IISL) and the European Centre for Space Law should be invited to organize a symposium on space law at the fifty-fourth session of the Subcommittee.